



March 14, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **MB** Docket No. 12-3

Dear Ms. Dortch:

Yesterday, March 13, 2012, Brian Frederick, Executive Director of Sports Fans Coalition ("SFC") met with Commissioner Robert McDowell and his Media Legal Advisor, Erin McGrath.

The meeting focused on the Petition for Rulemaking filed by SFC, Public Knowledge, Media Access Project, National Consumers League, and League of Fans, along with the significant filing in support of the Petition made by Professor Roger Noll of Stanford University and eight other prominent sports economists. Mr. Frederick provided the attached document.

Sincerely,

_S_____

David R. Goodfriend

FCC Proceeding to Consider Eliminating the Sports Blackout Rule
**Summary of Comments and Replies by Sports Fans Coalition, Public Knowledge,
National Consumers League, Media Access Project, League of Fans**

- 1) The Commission should eliminate the sports blackout rule.
 - a. Unnecessary, anti-consumer public subsidy
 - b. Leagues should use private negotiations rather than public regulations
- 2) Fans, particularly elderly and disabled ones, oppose government policies supporting blackouts.
 - a. Many elderly, disabled cannot attend games in person and rely on TV
- 3) No compelling economic rationale supports sports blackouts
 - a. NFL has provided no actual evidence that blackouts significantly increase ticket sales
 - b. Top sports economists argue “no factual basis to the claim that the NFL would suffer a significant adverse effect”
- 4) Eliminating Sports Blackout rule will not migrate more sports to pay TV.
 - a. Claim is based on false premise that blackouts significantly affect attendance and revenues
 - b. Changing blackout policy will not alter relative attractiveness of broadcast or pay TV to the NFL
 - c. NFL and broadcasters trying to have it both ways: they say ending blackout rule would lead to migration of pro sports to cable, but NFL down-plays economic significance of blackouts
- 5) Blackouts won’t necessarily end if Commission eliminates Sports Blackout Rule
 - a. Compulsory copyright statutes curtail pay TV providers from carrying games
 - b. satellite providers prohibited from importing game from distant market
 - c. cable providers would have to pay six months of copyright fees for one game
 - d. Network non-duplication rule blocks blacked out games on broadcast networks
 - i. All free over-the-air games in NFL on Fox, NBC or CBS
 - e. Broadcasters would likely invoke retransmission consent to limit out-of-market use of their signals
- 6) Blackouts may end, however, if NFL forced to negotiate for them in free market
 - a. Leagues have contracts today with all major pay-TV providers and can bargain for blackout protection if they so choose.
 - b. NFL claims pay TV providers “likely would resist inclusion of any contractual alternative to sports blackout rule”
 - c. Why should government have to uphold leagues’ blackout policies, especially when they haven’t shown evidence of economic harm?
- 7) Commission should open rule-making proceeding
 - a. Top sports economists explain market has changed over four decades
 - b. compulsory copyright statutes and regulations have changed in four decades
 - c. thousands of fans have written in support of ending rule